

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
February 15, 2011

In the Matter of SPRAGUE, Minors.

No. 298798
Oakland Circuit Court
Family Division
LC No. 07-738096-NA

Before: TALBOT, P.J., and SAWYER and M. J. KELLY, JJ.

PER CURIAM.

Respondent S. M. Sprague appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). Because there were no errors warranting relief, we affirm.

Respondent argues that the trial court erred in finding clear and convincing evidence to establish each of the three statutory grounds for termination. We review the trial court's findings of fact for clear error, giving deference to the trial court's special opportunity to evaluate the weight of evidence and the credibility of witnesses who appear before it. MCR 3.977(K); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003).

Respondent's reliance on the "neglect" standard in *In re Schmeltzer*, 175 Mich App 666, 676; 438 NW2d 866 (1989), is misplaced because that standard is based on former MCL 712A.19a(e). Termination is now governed by the various statutory grounds set forth in MCL 712A.19b(3). Under § 19b(3)(c)(i), a court may terminate parental rights if 182 days have elapsed since issuance of the initial dispositional order, the conditions that led to the adjudication continue to exist, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age. In considering this subsection, a court may appraise itself of all relevant circumstances in evaluating the conditions that led to the adjudication. *In re Jackson*, 199 Mich App 22, 26; 501 NW2d 182 (1993).

In this case, while respondent's incarceration was an event that led to adjudication, the general conditions that contributed to respondent's circumstances were much broader. The court obtained jurisdiction over respondent's older child on the basis of respondent's no contest plea to allegations that she was unable to provide a safe home for the child, even after being released from jail, because of issues involving her mental health, emotional instability, drug use, and domestic violence. The adjudicative trial after respondent gave birth to her second child resulted in the disclosure of further incidents of domestic violence between respondent and that child's father, and a court order prohibiting contact between respondent and that child's father. The

evidence showed that respondent was still using marijuana and remained in contact with her second child's father, which led to further episodes of domestic violence. The trial court did not clearly err in finding that the conditions that led to the adjudication continued to exist. Further, given the length of time respondent worked on her treatment plan without substantial progress, the trial court did not clearly err in finding that the conditions were not reasonably likely to be rectified within a reasonable time considering the ages of the children.

We disagree with respondent's argument that termination was improper because petitioner failed to provide adequate assistance to address her substance abuse and domestic violence. The reasonableness of services offered to a respondent can affect the sufficiency of the evidence in support of a statutory ground for termination. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005); see also *In re Newman*, 189 Mich App 61; 472 NW2d 38 (1991). Here, however, the record discloses that services were provided and respondent has failed to demonstrate that the services were inadequate or unreasonable. We find no merit to respondent's argument that the trial court should have assisted her by terminating the parental rights of her younger child's father earlier in the proceedings. The material question was not the legal status of the child's father, but rather respondent's ability to comply with and benefit from her court-ordered treatment plan. "[A] parent must benefit from the services offered so that he or she can improve parenting skills to the point where the child would no longer be at risk in the parent's custody." *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). Because respondent was ordered not to have contact with her younger child's father, she could not have reasonably believed that there were circumstances where contact was permissible without court approval. Considering the evidence as a whole, respondent has not shown any deficiency in the services provided that would preclude the trial court from finding that that § 19b(3)(c)(i) was established by clear and convincing evidence.

Although only one statutory ground for termination is required, *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000), we also find no clear error in trial court's findings that §§ 19b(3)(g) and (j) were also both established by clear and convincing evidence. The same evidence that supports termination under § 19b(3)(c)(i) also demonstrates that respondent will not be able to provide proper care and custody within a reasonable time, thereby supporting termination under § 19b(3)(g). Further, given respondent's failure to benefit from services and the likelihood that the children would be at risk of harm from domestic violence if returned to respondent's home, termination was also warranted under § 19b(3)(j).

Respondent also argues that the trial court erred in evaluating the children's best interests. The trial court appropriately determined that it was required to affirmatively find that termination was in the children's best interests before it could terminate respondent's parental rights. See MCL 712A.19b(5). We review the trial court's best interests decision for clear error. MCR 3.977(K); *In re JK*, 468 Mich at 209.

The record does not support respondent's argument that her parental rights were terminated on the basis of a mere lapse of time. Rather, in evaluating the children's best interests, the trial court considered several factors, including a psychological evaluation that was consistent with the court's findings regarding respondent's poor prognosis for improvement. The court acknowledged that respondent loved her children, but determined that termination of her parental rights was in the children's best interests because her history of substance abuse,

emotional instability, continuing domestic violence victimization, and angry and disruptive public outbursts would continue to expose the children to a pattern of chaos that was unlikely to be resolved in the foreseeable future. The trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Talbot

/s/ David H. Sawyer

/s/ Michael J. Kelly